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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7600 OF 2007

Mrs. Madhuri Vijay Joshi ... Petitioner

V/s

Lokmanya Medical Foundation's
College of Nursing Education & ors. ... Respondents

Mr. D.S.Jadhav for the petitioner.

Mr. Hitesh Mutha i/by M/s. Shaunak Satpute for Respondent Nos. 1 and 2.

Mrs. Suvarna Telgote for the Respondent No.3.

CORAM: J.N. PATEL &
SMT. NISHITA MHATRE, JJ.

DATED: 27TH NOVEMBER, 2007.

P.C.:

1. Heard.

2. This petition can be disposed of at the admission stage itself.

3. The petitioner took admission in the respondent institution in the academic year 2005-2006 for a nursing course which the respondent was conducting. After joining the respondent institution, the petitioner realized that the college lacks basic infrastructure

required for the said course. Surprisingly, respondent No.3 i.e. Maharashtra Nursing Council initially granted recognition to such an institution for reasons best known to them.

4. The petitioner having found that the basic infrastructure and facilities were contrary to the information given in the prospectus of the respondent institution, it will be to her disadvantage and therefore sought a Transfer Certification and No Objection Certificate (in short "N.O.C.") by an application dated 16.8.2005. The respondent institution avoided to issue the N.O.C./Transfer Certificate which later on forced the petitioner to knock the doors of this Court by invoking its extraordinary jurisdiction.

5. The fact that the petitioner applied for N.O.C./Transfer Certificate is not disputed by respondent Nos.1 and 2. There is no justification or reason put forth by the respondent Nos.1 and 2 while denying the petitioner the N.O.C./Transfer Certificate from the College of Nursing Education.

6. The learned counsel for the petitioner submitted that the respondent institution has no credibility and its courses have been derecognised and on earlier

occasion 12 students were required to approach this Court for seeking direction to the respondent institution for issuing N.O.C./Transfer Certificate i.e. only after this Court in Writ Petition No. 7004 of 2007 by judgment and order dated 26.10.2007 directed the respondent institution to return all the documents to the respective petitioners alongwith No Objection Certificates for taking admission in other nursing college of their choice. That the orders was complied.

7. The learned counsel appearing for the respondent No.3 also states that the respondent institution has been derecognised and their students are required to be admitted in other institution.

8. The learned counsel appearing for the respondent Nos.1 and 2 states that all original documents alongwith N.O.C./Transfer Certificate would be issued to the petitioner by tomorrow i.e. 28.11.2007 without fail. The learned counsel says that he is not having any instructions as to why the documents and N.O.C./Transfer Certificate are not issued since the petitioner has applied in the month of August, 2007 itself and inspite of reminder being given to the institution.

9. We accept the statement made by the learned counsel

for respondent Nos.1 and 2 that, all the original certificates alongwith N.O.C./Transfer Certificate would be issued to the petitioner by 28.11.2007, as an undertaking to this Court.

10. Before we part with the judgment and order, we would like to place on record that the respondent institution being solely responsible, justification to drive the student to the Court to seek redressal against the respondent institution's refusal to issue N.O.C./Transfer Certificate has led the student like the petitioner to incur expenditure for her litigation and approaching the High Court. We are aware of the fact that moving the High Court in its extraordinary jurisdiction is not within the reach of a common man as it is prohibitively expensive and, therefore, there is no reason why this Court should not compensate the petitioner so that in future such institutions would be refrained from denying the students' right to seek N.O.C./Transfer Certificate and driven to this Court.

11. We, therefore, allow the petition in terms of prayer clauses (b) and (c) subject to the undertaking given by the respondent institution to this Court that the reliefs sought in the petition would be complied by tomorrow, the 28th November, 2007.

12. We further direct respondent Nos.1 and 2 to pay cost of Rs.10,000/- to the petitioner. It shall be paid within two weeks from today. On failure of the respondent Nos.1 and 2 to pay the cost as directed, the same shall be recovered by the Collector, Pune, by resorting to provisions of law.

(J.N. PATEL, J.)

(SMT. NISHITA MHATRE, J.)